

RESOLUTION NO. 07-136

RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA APPROVING A MODIFICATION (SECOND AMENDMENT) TO AN AMENDED DECLARATION OF RESTRICTIONS DATED OCTOBER 16, 2003 AS RECORDED IN OFFICIAL RECORDS BOOK 21832, AT PAGES 2660-2661, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, A COPY OF WHICH IS ATTACHED HERETO AND MADE A PART HEREOF AS EXHIBIT "1". **PROPERTY LOCATED AT 7751 WEST 28 AVENUE, HIALEAH, FLORIDA.**

WHEREAS, the property located at 7751 West 28 Avenue, Hialeah, Florida was the first property that utilized the more liberal parking requirements for combined industrial and office uses contained in buildings with storefront facades and overhead doors in the rear pursuant to Hialeah Code §21-2189(5); and

WHEREAS, the combined industrial and commercial uses in one building allow for the minimum parking requirements to be satisfied for the percentage of the building used as industrial (one parking spaces for each 500 square feet of gross floor area on the ground floor) and for the percentage of the building used as commercial (one parking space for each 200 square feet); and

WHEREAS, the property owner underestimated the commercial uses of the property and the City had failed to obtain a declaration of restrictive covenants prior to the issuance of the building permit; and

WHEREAS, accordingly, the property owner and the City monitored the parking use through a series of voluntary declaration of restrictive covenants, prohibiting the use of intensive retail uses such as restaurants, beauty parlors, laundries, barber shops, banquet halls, bakeries; and

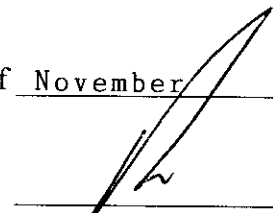
WHEREAS, after 5 years of monitoring, the City finds that the parking spaces are adequate to meet the combined commercial and industrial uses on the property so long as the banquet halls and sit-down restaurants are not located on the premises; and

WHEREAS, the City finds that it is in its best interest to consent to this modification of the declaration of restrictive covenants relating to minimum parking requirements.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:


Section 1: The Mayor and the City Council of the City of Hialeah, Florida hereby approve a modification (second amendment) to an amended Declaration of Restrictions dated October 16, 2003 as recorded in Official Records Book 21832, at pages 2660-2661, of the Public Records of Miami-Dade County, Florida, a copy of which is attached hereto and made a part hereof as Exhibit "1". Property located at 7751 West 28 Avenue, Hialeah, Florida.

PASSED AND ADOPTED this 13th day of November, 2007.



Esteban Bovo
Council President

Attest:



Rafael E. Granado, City Clerk

Approved on this 15 day of November, 2007.



Mayor Julio Robaina

Approved as to form and legal sufficiency:



William M. Grodnick, City Attorney

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Resolution was adopted by a 6-0-1 vote with Councilmembers Bovo, Caragol, Casals-Muñoz, Gonzalez, Hernandez, and Yedra voting "Yes" and Councilmember Miel absent.



CFN 2008RU111378
DR Bk 26207 Pgs 3565 - 3566 (2pgs)
RECORDED 02/08/2008 15:49:30
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

This instrument was prepared by:
RICHARD N. KRINZMAN, ESQ.
KRINZMAN HUSS & LUBETSKY LLP
1111 Brickell Avenue Suite 2915
Miami, Florida 33131

SECOND AMENDMENT TO DECLARATION OF RESTRICTIONS

This Second Amendment to Declaration of Restrictions ("**Second Amendment**") amends that certain Declaration of Restrictions executed the 19th day of June, 2003 by J.J. Starfind, LLC, a Florida limited liability company ("**Owner**"), recorded in Official Records Book 21416, at Pages 3582 to 3585 of the Public Records of Miami-Dade County, Florida, and that certain Amended Declaration of Restrictions executed by J.J. Starfind, LLC, a Florida limited liability company, recorded in Official Records Book 21832, Pages 2660 to 2661 of the Public Records of Miami-Dade County, Florida (collectively "**Declaration of Restrictions**")

WITNESSETH:

WHEREAS, the undersigned, J.J. Starfind, LLC a Florida limited liability company ("**Owner**") is the fee simple owner of the following described property located in the City of Hialeah, Miami-Dade County Florida:

Lots 1, 2, and 3, Block 2, MAYFAIR INDUSTRIAL PARK, according to the Plat thereof, as recorded in Plat Book 138, Page 38, of the Public Records of Miami-Dade County, Florida.
Property Address: 7751 West 28th Avenue, Hialeah, Florida.

NOW, THEREFORE, for good and valuable consideration, the undersigned **Owner** and the City of Hialeah, Miami-Dade County, Florida hereby covenant and agree to amend the above described **Declaration of Restrictions**, as follows:

1. Paragraph 1 of the Declaration of Restrictions is hereby and the same deleted, and the following paragraph is substituted in it's place and stead:

"1. Banquet Halls and Sit-down Restaurants shall be prohibited use on, or within the subject property. From and after the date of this Second Amendment, each unit of Units 1 through 15 identified in the Site Plan of the subject property that changes it's use subsequent to the date of this Second Amendment, and currently has retail use, shall dedicate a reasonable amount of the demised space to: storage, warehouse, and/or non-retail use."

2. All other terms and conditions of the Declaration of Restrictions shall remain in full force and effect without change.

Second Amendment of Declaration of Restrictions
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IN WITNESS WHEREOF, I have hereunto set my hand and seal at City of Hialeah, Miami-Dade County, Florida, this 26th day of October, 2007.

J.J. STARFIND, LLC,
a Florida limited liability company

By: Leo Martin

Leo Martin - Manager

[Signature]
Witness sign on the above line

Richard N. Krinzman
Witness print name on the above line

[Signature]
Witness sign on the above line

Scott E. Mittleman
Witness print name on the above line

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing Second Amendment of Declaration of Restrictions was acknowledged before me on this 26th day of October, 2007 by Leo Martin, as Manager of J.J. Starfind, LLC., a Florida limited liability company, on behalf of the company. He has produced his Florida Driver's License: M-635-520-25-467 as identification and did not take an oath.

[Signature]
NOTARY PUBLIC, STATE OF FLORIDA
Stamped, typed or printed name below:

My commission expires:

